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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

KRISTA O'DONOVAN, EDUARDO DE LA
 TORRE, and LORI SAYSOURIVONG,
 individually and on behalf of all others
 similarly situated,

Plaintiffs,

v.

CASHCALL, INC., a California corporation,
 and DOE 1 through DOE 50, inclusive,

Defendants.

CASHCALL, INC., a California corporation,

Counterclaimant,

v.

LORI SAYSOURIVONG and EDUARDO DE
 LA TORRE, individually and on behalf of all
 others similarly situated,

Counterdefendants.

Case No.: CV 08-3174-MEJ

CLASS ACTION

**JOINT CASE STATUS UPDATE AND
 PLAINTIFFS' REQUEST FOR CASE
 MANAGEMENT CONFERENCE AND
 THE SCHEDULING OF DATES**

Courtroom: B – 15th Floor
 Judge: Hon. Maria-Elena James

Complaint filed: July 1, 2008

1 Per this Court's February 11, 2013 Order, the parties hereby submit this Joint Case Status
2 Update. With this update, Plaintiffs request that this Court set a Case Management Conference to
3 discuss the schedule in this case and discovery enforcement.

4 **1. Status Update.**

5 In compliance with this Court's July 20, 2012 Order re: Class Notice Plan, by August 3, 2012
6 email notice was delivered to 120,870 class members and by October 3, 2012 postcard notice was
7 mailed to 49,481 class member. Of the 170,351 class members, 26 opted-out.

8 Plaintiffs' Views:

9 Since last fall, plaintiffs have been pursuing merits discovery in anticipation of defendant's
10 promised defense summary judgment motion and trial. Plaintiffs served document requests and
11 interrogatories in September 2012. Plaintiffs believe that defendant's responses are still inadequate in
12 numerous critical respects.

13 There has been a lengthy meet and confer process, during which defendant provided some
14 additional information. However, plaintiffs intend to present the issues to the Court as soon as possible.
15 In accordance with the Court's standing Orders, plaintiffs have been attempting to schedule an in-person
16 meeting with defense counsel, who are in Los Angeles. A face-to-face discovery meeting has just been
17 scheduled for March 15. Plaintiffs anticipate that this meeting will not resolve the issues and intent to
18 promptly file a letter brief to compel discovery regarding the remaining outstanding issues.

19 In addition, plaintiffs plan to serve additional document discovery in light of the information that
20 has recently been provided by defendant and based on further review and analysis of prior document
21 productions. Additionally, plaintiffs will soon notice and take the depositions of several witnesses
22 recently identified in defendant's interrogatory answers. However, they need to receive all responsive
23 documents to the outstanding written discovery prior to conducting those depositions.

24 Plaintiffs submit that the following schedule is realistic, assuming responsiveness and
25 cooperation from defendant in producing further documents, resolving further discovery disputes, and
26 scheduling the depositions.

27 Plaintiffs' Proposed Dates:

1	Factual Discovery Cut-off	July 31, 2013 ¹
2	Expert Disclosure	July 31, 2013
3	Rebuttal Expert Disclosure	August 15, 2013
4	Expert Discovery Cut-off	September 15, 2013
5	Deadline to File Dispositive Motions	October 15, 2013
6	Trial Date	December 16, 2013

7 Finally, Plaintiffs' respectfully request this Court schedule a Case Management Conference so
8 that the Court may address the schedule and discovery enforcement.

9 Defendants' Views:

10 Defendant disagrees with Plaintiffs' proposed schedule. This case has been pending for nearly
11 five years. Plaintiffs have had ample time to conduct discovery, and the remaining issues in the case are
12 questions of law. Defendant intends to file two separate motions for summary judgment as to the two
13 certified class claims. The EFTA class claim – which involves a question of statutory interpretation –
14 likely will not require expert testimony. Defendant intends to file that summary judgment motion within
15 the next thirty days. None of the outstanding discovery relates to the EFTA class claim.

16 The unconscionability claim may require expert testimony, and Defendant will not file that
17 motion until after the parties have designated experts and exchanged reports. Defendant is prepared to
18 designate experts and to exchange experts reports. Plaintiffs already have retained one expert witness
19 who provided a declaration in connection with the class certification motion. So there is no reason why
20 the expert exchange should be delayed by four months.

21 Plaintiffs devote most of their report to presenting a one-sided view of a supposed discovery
22 dispute that is largely resolved. Much of the discovery that Plaintiffs served in September was
23 duplicative of previous discovery requests. Plaintiffs characterize their most recent requests as “merits
24 discovery”, but they have been conducting merits discovery from the outset of this case, nearly five
25 years ago. The Court never limited pre-certification discovery to “class issues”, and Plaintiffs have

26 ¹ In the event the parties have outstanding discovery disputes at this time, they shall have good
27 cause to seek leave to extend factual discovery cut-off until those disputes are resolved.
28

1 conducted extensive discovery, including taking numerous depositions.

2 Defendant has responded to the most recent round of discovery requests and has supplemented
3 its response. Defendant will be producing additional documents within the next two weeks, and the
4 matter will be resolved without court intervention. Defendant does not believe that there will be any
5 reason for Plaintiffs to file a motion to compel.

6 It is also not clear what witnesses Plaintiffs claim were recently identified in Defendant's
7 interrogatory responses. . Any witnesses referred to in the recent discovery responses should have been
8 known to Plaintiffs prior to filing their class certification motion based on prior discovery. In addition,
9 Plaintiffs have had the responses to these interrogatories for months and have not mentioned their desire
10 to depose any additional witness. In addition, Plaintiffs already have deposed numerous corporate
11 designees on a variety of topics that relate to the merits of their remaining claims.

12 Defendant proposes the following schedule:

13 Factual Discovery Cut-off April 30, 2013

14 Expert Disclosure April 30, 2013

15 Rebuttal Expert Disclosure May 15, 2013

16 Expert Discovery Cut-off June 15, 2013

17 Deadline to File Dispositive Motions July 15, 2013

18 Defendant agrees that the Court should defer setting the case for trial until after the rulings on
19 both summary judgment motions. Defendant also reserves the right to file summary judgment motions
20 prior to any deadline established by the Court. As discussed above, Defendant anticipates filing its
21 summary judgment motion as to the EFTA claim within the next thirty days.

22 DATED: March 4, 2013

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24 ARTHUR D. LEVY

25 LAW OFFICES OF DAMON M. CONNOLLY

26 RUKIN, HYLAND, DORIA & TINDALL

27 By: /s/ Whitney Stark
Whitney Stark

Attorneys for Plaintiffs

DATED: March 4, 2013

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By: /s/ Brad W. Seiling
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ATTESTATION UNDER GENERAL ORDER 45

I, Whitney Stark, am the ECF User whose ID and password are being used to file the within document:

JOINT CASE STATUS UPDATE

Pursuant to General Order 45, I hereby attest that Brad W. Seiling has concurred in this filing and that I have on file all holograph signatures for any signatures indicated by a "conformed" signature (/S/) within this efiled document.

By: /s/ Whitney Stark
WHITNEY STARK